

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In Re Application of:

Confirmation No.: **6170**

Robert J. Beyers

Group Art Unit: 2424

Serial No.: **09/973,610**

Examiner: **Hossain, Farzana E.**

Filed: **October 9, 2001**

Docket No.: **A-7280/60374.0046US01**

For: **Triggered Media Content in a Subscriber Television System**

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a Reply Brief in response to the Examiner's Answer dated March 19, 2009.

I. STATUS OF THE CLAIMS

Claims 1, 4, 5 and 7-38 remain pending in the present application. The Examiner's Answer maintains the rejections of claims Claims 1, 4, 5 and 7-38 under 35 U.S.C. § 103(a) and generally repeats the arguments advanced in the Final Office Action dated June 23, 2008 along with providing additional comments (in the Response to Argument Section, beginning substantively on page 32 of the Examiner's Answer) to the Appeal Brief, filed on December 22, 2008. With regard to the substantive remarks of the Examiner's Answer, Appellant respectfully disagrees. Although Appellant will address some issues raised in the Examiner's Answer, Appellant continues to repeat, re-allege, and incorporate by reference the positions and arguments set forth in the Appeal Brief.

II. ARGUMENTS

Appellant addresses some of the rebuttal comments substantively beginning on page 32 of the Examiner's Answer below. The omission of discussion pertaining to some issues raised in the Examiner's Answer should not be interpreted as an admission of the assertions made in the Examiner's Answer.

For claims 1, 24, 31, and 34, the Examiner's Answer alleges on page 32-33 that *Wine* discloses triggers in the form of VBI tokens that are allegedly synchronized to the accompanying content, and that *Zigmond* supplies the deficiencies with respect to the "exclusive" aspect to the trigger. Appellant wishes to note that the claims are not to be read in a vacuum, but as a whole. That is, claims 1, 24, 31, and 34 require the enabling of ***all of the media content instances***, except the excluded ones, responsive to the ***trigger*** that is ***synchronized*** with a first of the ***plurality of media content instances***. In other words, even assuming *arguendo* that *Wine* discloses triggers synchronized to the accompanying content, *Wine* does not enable the display (along with the video and application) of the multiple media content instances, but merely one appropriately themed content. There are indeed sets of VBI tokens described in *Wine* (e.g.,

paragraph 0034), but there is no suggestion or teachings, in the sections cited from *Wine* to support the rejection, that there are multiple candidates of media content instances for display corresponding to the at least one claimed synchronized trigger. Rather, the sets appear to correspond to plural time stamps (see, e.g., paragraph 0033). *Zigmond* and *Bruck* fail to provide a remedy to this deficiency, and hence the combination fails as a whole to make obvious claims 1, 24, 31, and 34. For at least this reason, Appellant respectfully requests that the rejection be overruled.

With regard to claim 17, the Examiner's Answer appears to equate a mere audio/visual stream with the claimed **transport stream**, referencing paragraph [0050] of *Wine* and noting that Appellant's specification "also discloses an audiovisual stream as the transport stream (Figure 8A)." Appellant respectfully disagrees with this simplistic interpretation. The plain ordinary meaning of **transport stream** would likely be recognized by any reader as connoting more than a mere audiovisual stream. In addition, though Appellant acknowledges that a broad interpretation is allowed, it is not implemented without constraint, but rather, subject to a reasonable reading of the specification. One having ordinary skill in the art of subscriber television systems would clearly understand, in the context of Appellant's specification, that a transport stream connotes more than just a mere audio visual stream, but more typically, an MPEG-2 type of transport stream or other stream with multiplexed subcomponents (e.g., a multiplex of programs, a multiplex of elementary streams, etc.). For instance, page 15 of Appellant's specification corresponding to Figure 8A also discloses (emphasis added) that "the transport stream depicted in FIG. 8A could be implemented in a variety of different transport protocols, an example including, among others, an MPEG-2 transport stream. It should be apparent to one of ordinary skill in the art that the format of the diagram of FIG. 8A is for illustrative purposes and does not indicate the actual transport stream, which could be implemented as one stream with numerous multiplexed sub-components." The Examiner's Answer has parsed Appellant's description in a manner that obviates any mention of the

surrounding and relevant text, which is not likely the manner in which one having ordinary skill in the art would read the specification. In view of the above, it is clear that *Wine* is utterly devoid of any suggestion or teaching of a ***transport stream***, and accordingly, Appellant respectfully requests that the rejection be overruled.

With regard to claim 21, Appellant directs attention to the arguments presented above in association with claim 1, applicable at least in part to claim 21, and accordingly, for similar reasons, the rejection should be overruled.

With regard to claim 37, Appellant directs attention to the arguments presented above in association with claim 17, applicable at least in part to claim 37, and accordingly, for similar reasons, the rejection should be overruled.

With regard to claim 10, Appellant wishes to correct the record that no such admission has been presented by Appellant as alleged on the top of page 36, and believes the allegation to be a typographical error where "does not" has likely been inadvertently omitted.

III. CONCLUSION

Based upon the foregoing discussion, the Appellant respectfully requests that the Examiner's final rejection of claims 1, 4, 5 and 7-38 be overruled and withdrawn by the Board, and that the application be allowed to issue as a patent with all pending claims.

No additional fee is believed to be due. However, any additional fee that may be due or required is authorized to be charged to deposit account no. 13-2725.

Respectfully submitted,

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